

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Elnora Carthan, *et al.*,

Plaintiffs,

-v-

Rick Snyder, *et al.*,

Defendants.

Case No.: 5:16-cv-10444-JEL-MKM

Hon. Judith E. Levy
Magistrate Judge Mona K. Majzoub

**DECLARATION OF THEODORE J. LEOPOLD IN SUPPORT OF
CLASS PLAINTIFFS' MOTION FOR CLASS CERTIFICATION AND
APPOINTMENT OF CLASS COUNSEL**

Pursuant to 28 U.S.C. § 1746, I, Theodore J. Leopold, declare as follows:

1. I am a partner of the law firm Cohen Milstein Sellers & Toll PLLC and I, along with Michael L. Pitt of the law firm Pitt McGehee Palmer & Rivers, P.C., serve as Court-appointed Interim Co-Lead Class Counsel in the above captioned matter. I have personal knowledge of the matters stated in this Declaration.

2. Attached as Exhibit 1 is a true and correct copy of a transcript of a March 17, 2016 hearing before the House Committee on Oversight and Government Reform.

3. Attached as Exhibit 2 is a true and correct copy of a press release entitled "Schuette Charges Six More in Flint Water Crisis."

4. Attached as Exhibit 3 is a true and correct copy of a document produced as Aug-14-2019 EGLE0033952.

5. Attached as Exhibit 4 is a true and correct copy of a document previously marked as Muchmore Deposition Exhibit 8 and produced as Aug-14-2019 EGLE0073419.

6. Attached as Exhibit 5 is a true and correct copy of a document previously marked as Prysby Deposition Exhibit 74 and entitled “Combined Sewer Overflow (CSO), Sanitary Sewer Overflow (SSO), and Retention Treatment Basin (RTB) Discharge 2013 Annual Report.”

7. Attached as Exhibit 6 is a true and correct copy of a document previously marked as Busch Deposition Exhibit 180 and produced as Oct-7-2019 EGLE0058088.

8. Attached as Exhibit 7 is a true and correct copy of a document previously marked as Prysby Deposition Exhibit 75 and entitled “Richfield Landfill, Davison, Genesee County.”

9. Attached as Exhibit 8 is a true and correct copy of a document previously marked as Prysby Deposition Exhibit 76 and entitled “Richfield Sanitary Landfill.”

10. Attached as Exhibit 9 is a true and correct copy of a document previously marked as Busch Deposition Exhibit 178 and produced as Oct-7-2019 EGLE0058026.

11. Attached as Exhibit 10 is a true and correct copy of a document previously marked as Muchmore Deposition Exhibit 4 and produced as Oct-7-2019 EGLE0166887.

12. Attached as Exhibit 11 is a true and correct copy of a document produced as AMBROSE0003757.

13. Attached as Exhibit 12 is a true and correct copy of a document previously marked as Walling Deposition Exhibit 59 and produced as 05-09-2016 SOM0045489.

14. Attached as Exhibit 13 is a true and correct copy of a document previously marked as Walling Deposition Exhibit 60 and produced as COF_FED_0246848.

15. Attached as Exhibit 14 is a true and correct copy of a document previously marked as Walling Deposition Exhibit 63 and produced as SOM-Flood 0049819.

16. Attached as Exhibit 15 is a true and correct copy of a document produced as COF_FED_0114990.

17. Attached as Exhibit 16 is a true and correct copy of a document previously marked as Walling Deposition Exhibit 62 and produced as COF_FED_0540990.

18. Attached as Exhibit 17 is a true and correct excerpt of the transcript of the deposition of Dayne Walling.¹

19. Attached as Exhibit 18 is a true and correct copy of a document produced as May-23-2020 GOV0203612.

20. Attached as Exhibit 19 is a true and correct copy of a document produced as 05-09-2016 SOM0037482.

21. Attached as Exhibit 20 is a true and correct copy of a document previously marked as Muchmore Deposition Exhibit 36 and produced as 04-22-2016 SOM-KIDD 0002896.

22. Attached as Exhibit 21 is a true and correct copy of a document produced as 04-22-2016 SOM-KIDD 0002898.

23. Attached as Exhibit 22 is a true and correct copy of a document previously marked as Muchmore Deposition Exhibit 39 and produced as COF_FED_0123640.

¹ Given the voluminous size of their motion for class certification filing, Class Plaintiffs have provided the Court with excerpts of deposition transcripts. However, Class Plaintiffs can provide larger transcript excerpts and/or full transcripts upon request.

24. Attached as Exhibit 23 is a true and correct excerpt of the transcript of the deposition of Stephen Busch.

25. Attached as Exhibit 24 is a true and correct excerpt of a document produced as SOM-AG-LYON_0000019.

26. Attached as Exhibit 25 is a true and correct copy of document produced as Dec-16-2019 DHSS0196751.

27. Attached as Exhibit 26 is a true and correct copy of a document produced as COF_FED_0342353.

28. Attached as Exhibit 27 is a true and correct excerpt of the transcript of the deposition of Michael Glasgow.

29. Attached as Exhibit 28 is a true and correct copy of a document previously marked as Glasgow Deposition Exhibit 22 and produced as Oct-7-2019 EGLE0126915.

30. Attached as Exhibit 29 is a true and correct copy of a document previously marked as Busch Deposition Exhibit 185 and produced as 6-6-2016 SOM-Mason 00039312.

31. Attached as Exhibit 30 is a true and correct copy of a document previously marked as Wurfel Deposition Exhibit 47 and produced as 04-22-2016 SOM-KIDD 0000344.

32. Attached as Exhibit 31 is a true and correct copy of a document previously marked as Shekter-Smith Deposition Exhibit 5 and produced as 04-15-2016 SOM0024957.

33. Attached as Exhibit 32 is a true and correct excerpt of the rough transcript of the deposition of Liane Shekter-Smith. As of the date of the filing of this Declaration, counsel for Class Plaintiffs has not yet received a copy of the final transcript.

34. Attached as Exhibit 33 is a true and correct copy of a document produced as Aug-14-2019 EGLE0277413.

35. Attached as Exhibit 34 is a true and correct copy of a document produced as Aug-14-2019 EGLE0053950.

36. Attached as Exhibit 35 is a true and correct copy of a document previously marked as Wurfel Deposition Exhibit 23 and produced as 05-09-2016 SOM0044709.

37. Attached as Exhibit 36 is a true and correct copy of a document produced as 04-15-2016 SOM0008083.

38. Attached as Exhibit 37 is a true and correct excerpt of the transcript of the deposition of Adam Rosenthal.

39. Attached as Exhibit 38 is a true and correct copy of a document produced as Flint-DEQ_0002_0780.²

40. Attached as Exhibit 40 is a true and correct copy of a document previously marked as Bincsik Deposition Exhibit 163 and produced as 04-15-2016 SOM0007264.

41. Attached as Exhibit 41 is a true and correct copy of a document produced as 6-6-2016 SOM-Mason 00046145.

42. Attached as Exhibit 42 is a true and correct copy of a document previously marked as Rosenthal Deposition Exhibit 16 and produced as Oct-7-2019 EGLE0051050.

43. Attached as Exhibit 43 is a true and correct excerpt of the transcript of the deposition of Bradley Wurfel.

44. Attached as Exhibit 44 is a true and correct copy of a document previously marked as Wurfel Deposition Exhibit 68 and produced as 04-15-2016 SOM0011732.

45. Attached as Exhibit 45 is a true and correct copy of a document previously marked as Johnson Deposition Exhibit 142 and produced as COF_FED_0140171.

² There is no Exhibit 39 associated with this filing.

46. Attached as Exhibit 46 is a true and correct copy of a document previously marked as Brader Deposition Exhibit 11 and produced as COF_FED_0123642.

47. Attached as Exhibit 47 is a true and correct excerpt of the transcript of the deposition of Valerie Brader.

48. Attached as Exhibit 48 is a true and correct copy of a document previously marked as Ambrose Deposition Exhibit 25 and produced as COF_FED_0549718.

49. Attached as Exhibit 49 is a true and correct excerpt of the transcript of the deposition of Gerald Ambrose.

50. Attached as Exhibit 50 is a true and correct excerpt of the transcript of the deposition of Daugherty Johnson.

51. Attached as Exhibit 51 is a true and correct copy of a document previously marked as Croft Deposition Exhibit 23 and produced as COF_FED_0243116.

52. Attached as Exhibit 52 is a true and correct copy of a document produced as COF_FED_0227528.

53. Attached as Exhibit 53 is a true and correct copy of a document previously marked as Ambrose Deposition Exhibit 32 and produced as COF_FED_0009721.

54. Attached as Exhibit 54 is a true and correct excerpt of the transcript of the deposition of Howard Croft.

55. Attached as Exhibit 55 is a true and correct copy of a document previously marked as Nakashima Deposition Exhibit 2 and produced as LAN_FLINT_00187649. Because Exhibit 55 is over 100 MB in file size, counsel for Class Plaintiffs will e-mail a link to the Court and counsel of record to download the exhibit.

56. Attached as Exhibit 56 is a true and correct copy of a document previously marked as Nakashima Deposition Exhibit 1.

57. Attached as Exhibit 57 is a true and correct copy of a document previously marked as Nakashima Deposition Exhibit 11 and produced as LAN_FLINT_00188400.

58. Attached as Exhibit 58 is a true and correct copy of the Expert Report of Dr. Larry L. Russell in Support of Plaintiffs' Motion for Class Certification.

59. Attached as Exhibit 59 is a true and correct copy of a document produced as Aug-14-2019 EGLE0007335.

60. Attached as Exhibit 60 is a true and correct copy of a document produced as COF_FED_0626254.

61. Attached as Exhibit 61 is a true and correct copy of a document produced as COF_FED_0024452.

62. Attached as Exhibit 62 is a true and correct copy of a document produced as VWNAOS019282.

63. Attached as Exhibit 63 is a true and correct copy of a document produced as VWNAOS019339.

64. Attached as Exhibit 64 is a true and correct copy of a document produced as VWNAOS006273.

65. Attached as Exhibit 65 is a true and correct excerpt of the transcript of the deposition of Robert Nicholas.

66. Attached as Exhibit 66 is a true and correct copy of a document produced as VWNAOS005734.

67. Attached as Exhibit 67 is a true and correct copy of a Michigan Radio article entitled, “Flint hires a water consulting firm, UM-Flint releases its own water test results.”

68. Attached as Exhibit 68 is a true and correct copy of a document produced as VWNAOS018984.

69. Attached as Exhibit 69 is a true and correct copy of a document produced as VWNAOS001196.

70. Attached as Exhibit 70 is a true and correct copy of a document produced as VWNAOS006624.

71. Attached as Exhibit 71 is a true and correct copy of a document produced as VWNAOS004416.

72. Attached as Exhibit 72 is a true and correct copy of a document previously marked as Glasgow Deposition Exhibit 76 and produced as VWNAOS028028.

73. Attached as Exhibit 73 is a true and correct copy of a document produced as VWNAOS038822. Because Exhibit 73 is an Excel spreadsheet, counsel for Class Plaintiffs will e-mail a native copy to the Court and counsel of record.

74. Attached as Exhibit 74 is a true and correct excerpt of the transcript of the deposition of Depin (Theping) Chen.

75. Attached as Exhibit 75 is a true and correct excerpt of the transcript of the deposition of Marvin Gnagy.

76. Attached as Exhibit 76 is a true and correct copy of a document previously marked as Chen Deposition Exhibit 11 and produced as VWNAOS081161.

77. Attached as Exhibit 77 is a true and correct copy of a document previously marked as Nicholas Deposition Exhibit 13, which contains extracted text from a document produced as VWNAOS091608.

78. Attached as Exhibit 78 is a true and correct copy of a document previously marked as Nicholas Deposition Exhibit 16 and produced as VWNAOS056566.

79. Attached as Exhibit 79 is a true and correct copy of a document previously marked as Nicholas Deposition Exhibit 17 and produced as VWNAOS056578.

80. Attached as Exhibit 80 is a true and correct copy of a document previously marked as Nicholas Deposition Exhibit 18 and produced as VWNAOS056574.

81. Attached as Exhibit 81 is a true and correct copy of the Declaration of Howard Hu, M.D., M.P.H., Sc.D., in Support of Plaintiffs' Motion for Class Certification.

82. Attached as Exhibit 82 is a true and correct excerpt of the transcript of the deposition of Rhonda Kelso.

83. Attached as Exhibit 83 is a true and correct excerpt of the transcript of the deposition of Barbara Davis.

84. Attached as Exhibit 84 is a true and correct copy of Class Plaintiffs' Trial Plan.

85. Attached as Exhibit 85 is a true and correct copy of the Declaration of Pierre Goovaerts, Ph.D., in Support of Plaintiffs' Motion for Class Certification.

86. Attached as Exhibit 86 is a true and correct copy of the Expert Report of Paul A. Simons, Ph.D., in Support of Plaintiffs' Motion for Class Certification.

87. Attached as Exhibit 87 is a true and correct copy of the Expert Report of R. Bruce Gamble in Support of Plaintiffs' Motion for Class Certification.

88. Attached as Exhibit 88 is a true and correct copy of a document previously marked as Kelso Deposition Exhibit 12 and produced as RHONDA-KELSO_0000167.

89. Attached as Exhibit 89 is a true and correct excerpt of Plaintiff Barbara Davis's Amended and Supplemental Responses to Defendants' First Set of "Uniform" Interrogatories.

90. Attached as Exhibit 90 is a true and correct excerpt of the transcript of the deposition of Darrell Davis.

91. Attached as Exhibit 91 is a true and correct excerpt of the transcript of the deposition of Elnora Carthan.

92. Attached as Exhibit 92 is a true and correct excerpt of Plaintiff David Munoz's Amended Responses to Defendants' First Set of "Uniform" Interrogatories.

93. Attached as Exhibit 93 is a true and correct excerpt of the transcript of the deposition of David Munoz.

94. Attached as Exhibit 94 is a true and correct excerpt of the transcript of the deposition of Tiantha Williams.

95. Attached as Exhibit 95 is a true and correct excerpt of Plaintiff Frances Gilcreast's Amended Responses to Defendants' First Set of "Uniform" Interrogatories.

96. Attached as Exhibit 96 is a true and correct excerpt of the transcript of the deposition of Frances Gilcreast.

97. Attached as Exhibit 97 is a true and correct excerpt of Plaintiff Angelo Coney Island Palace, Inc.'s Amended and Supplemental Response to Defendants' First Set of "Uniform" Interrogatories.

98. Attached as Exhibit 98 is a true and correct excerpt of the transcript of the deposition of Neil Helmkey.

99. Attached as Exhibit 99 is a true and correct copy of the Declaration of Bruce P. Lanphear, M.D., M.P.H., in Support of Plaintiffs' Motion for Class Certification.

100. Attached as Exhibit 100 is a true and correct copy of a document produced as COF_FED_0676999.

101. Attached as Exhibit 101 is a true and correct copy of a document previously marked as Nicholas Deposition Exhibit 7 and produced as VWNAOS019281.

102. Attached as Exhibit 102 is a true and correct copy of the Expert Report of Dr. Paolo Gardoni in Support of Plaintiffs' Motion for Class Certification.

103. Attached as Exhibit 103 is a true and correct excerpt of the transcript of the deposition of Steven Luoma.

104. Attached as Exhibit 104 is a true and correct excerpt of the transcript of the deposition of Jeremy Nakashima.

105. Attached as Exhibit 105 is a true and correct excerpt of the transcript of the deposition of Michael Schock.

106. Attached as Exhibit 106 is a true and correct copy of a document produced as COF_FED_0214303.

107. Attached as Exhibit 107 is a true and correct copy of a document produced as LAN_FLINT_00063901.

108. Attached as Exhibit 108 is a true and correct copy of a document previously marked as Glasgow Deposition Exhibit 77 and produced as VWNAOS008493.

109. Attached as Exhibit 109 is a true and correct copy of a document previously marked as Glasgow Deposition Exhibit 78 and produced as COF_FED_0628049.

110. Attached as Exhibit 110 is a true and correct copy of a document previously marked as Glasgow Deposition Exhibit 79 and produced as COF_FED_0016290.

111. Attached as Exhibit 111 is a true and correct copy of a document produced as VWNAOS006498.

112. Attached as Exhibit 112 is a true and correct copy of a document produced as VWNAOS006511.

113. Attached as Exhibit 113 is a true and correct copy of a document produced as VWNAOS007634.

114. Attached as Exhibit 114 is a true and correct copy of the Expert Report of David Keiser, Ph.D., in Support of Plaintiffs' Motion for Class Certification.

115. Attached as Exhibit 115 is a true and correct copy of a document produced as VATECH_00212274. Because Exhibit 115 is an Excel spreadsheet, counsel for Class Plaintiffs will e-mail a native copy to the Court and counsel of record.

116. Attached as Exhibit 116 is a true and correct copy of a document previously marked as Prysby Deposition Exhibit 82 and produced as Aug-14-2019 EGLE0002604. Because Exhibit 116 is an Excel spreadsheet, counsel for Class Plaintiffs will e-mail a native copy to the Court and counsel of record.

117. Attached as Exhibit 117 is a true and correct excerpt of the rough transcript of the deposition of Michael Prysby. As of the date of the filing of this Declaration, counsel for Class Plaintiffs has not yet received a copy of the final Volume III transcript

118. Attached as Exhibit 118 is a true and correct copy of the Expert Report of David A. Pogorilich in Support of Plaintiffs' Motion for Class Certification.

119. Attached as Exhibit 119 is a true and correct copy of the Declaration of Daniel P. Keating, Ph.D., in Support of Plaintiffs' Motion for Class Certification.

120. Attached as Exhibit 120 is a true and correct copy of the Declaration of Alan Ducatman, M.D., M.S., in Support of Plaintiffs' Motion for Class Certification.

121. Attached as Exhibit 121 is a true and correct copy of the Declaration of Daryn Reicherter, M.D., in Support of Plaintiffs' Motion for Class Certification.

122. Attached as Exhibit 122 is a true and correct copy of the Declaration of Clifford P. Weisel, Ph.D., M.S., in Support of Plaintiffs' Motion for Class Certification.

123. Attached as Exhibit 123 is a true and correct copy of the Declaration of Panagiotis (Panos) G. Georgopoulos, Ph.D., M.S., in Support of Plaintiffs' Motion for Class Certification.

124. Attached as Exhibit 124 is a true and correct copy of a document previously marked as Snyder Deposition Exhibit 1 and produced as Mar-23-2020 GOV0129358.

125. Attached as Exhibit 125 is a true and correct excerpt of the rough transcript of the deposition of Richard Snyder. As of the date of the filing of this Declaration, counsel for Class Plaintiffs has not yet received a copy of the final transcript.

126. Attached as Exhibit 126 is a true and correct excerpt of the transcript of the deposition of Dennis Muchmore.

127. Attached as Exhibit 127 is a true and correct copy of a document previously marked as Carthan Deposition Exhibit 3 and produced as ELNORA-CARTHAN_0000059.

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on June 30, 2020
Wrightsville Beach, North Carolina

/s/ Theodore J. Leopold
Theodore J. Leopold

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing instrument was filed with the U.S. District Court through the ECF filing system and that all parties to the above case were served via the ECF filing system on July 16, 2020.

Dated: July 16, 2020

/s/ Jessica B. Weiner

Jessica B. Weiner

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